

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

	ORDER
Leon J. & Lavonne A. Wernimont, Petitioner-Appellants,	Docket No. 09-14-0086 Parcel No. 02-27-400-001
v.	Docket No. 09-14-0087 Parcel No. 02-27-300-002
Carroll County Board of Review, Respondent-Appellee.	Docket No. 09-14-0088 Parcel No. 02-27-151-003
	Docket No. 09-14-0089 Parcel No. 02-27-176-003
	Docket No. 09-14-0090 Parcel No. 02-34-200-003
	Docket No. 09-14-0091 Parcel No. 02-27-400-006

On October 13, 2009, the above-captioned appeal came on for hearing before the State of Iowa Property Assessment Appeal Board. The appeal was conducted pursuant to Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The Petitioner-Appellants, Leon J. and Lavonne A. Wernimont, were self-represented, and submitted evidence in support of their appeal. The Respondent-Appellee, Carroll County Board of Review, designated County Attorney John Werden as its legal representative. A digital record of the proceeding was made. The Appeal Board now having reviewed the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Leon J. and Lavonne A. Wernimont, owners of property located at 20678 180th Street, Carroll, Iowa, appeal from the Carroll County Board of Review decision reassessing their property. The real estate was classified as agricultural realty for January 1, 2009, and the six parcels were valued at \$153,590.

The Wernimonts protested to the Board of Review on the ground that properties were assessed for more than authorized by law under Iowa Code section 441.37(1)(b). In response to the protest, the Board of Review notified the Wernimonts that the January 1, 2009, assessments would remain unchanged stating, "Agricultural assessments are correctly and consistently calculated according to Iowa law. Insufficient evidence presented to prove assessments are excessive."

The Wernimonts then filed an appeal with this Board on the ground that the properties are assessed for more than authorized by law. The amount of relief sought by the Wernimonts is \$52,545, who value the six parcels at \$101,045.

The subject property consists of six agricultural parcels of land in rural Carroll County that range in size from a 5.2 acre parcel to a 40 acre parcel for a total of 141.07 acres.

Mr. Wernimont testified that the large increase in his 2009 assessment was pretty much equal to all owners of farmable land. However, his concern was the increase to his non-farmable creek pasture assessments. Mr. Wernimont presented a publication by author Gerald A. Miller from Iowa State University regarding the use of Corn Stability Ratings (CSR) for row-crop productivity. In Mr. Wernimont's opinion, adjustments need to be made for other factors such as location, water supplies, crop and non-crop acreages.

Mr. Wernimont presented, in part, data from the *Iowa Real Property Appraisal Manual* issued by the Department of Revenue. Mr. Wernimont offered several pages of the manual that identified factors which affect the value of particular tracts of land. Some of the factors are drainage patterns, perennial streams, waterways not crossable with tillage equipment, and areas that may have soil suited for row-crop, but due to inaccessibility, the use is restricted to pasture. Therefore, in his opinion, adjustments should be made to the CSR ratings.

Mr. Wernimont testified at hearing regarding rent payments and cash rent for pasture land. He calculated his net earnings based on cash rent to determine his assessed value. This Board notes that by rule, productivity and net earnings are based on a landlord-share method, not cash rent.

Mr. Wernimont testified that he was informed by personnel in the Carroll County Assessor's office that the agricultural valuations are based on CSR's and there was nothing they could do about it. This position is supported by the Board of Review minutes which indicate the agricultural realty protests were denied because assessments are calculated by law.

Diane Janning, Carroll County Assessor, on behalf of the Board of Review, presented Soil Calculation Reports for all six parcels. These reports noted each soil code and name, identified spots, recorded the net acres, and provided the adjusted CSR points.

The *Real Property Appraisal Manual*¹ states that a basic assumption in the CSR system is that the ratings are related primarily to the productivity of the land and that any factor that detracts from the agricultural productivity of the land requires adjustment. The manual recommends on-site investigation for situations not specifically shown on the soil map by symbols such as use limitations improved by small area and/or location caused by drainage-ways not crossable with tillage equipment; areas requiring artificial drainage which cannot be drained due to lack of an outlet or other physical limitation; areas subject to overflow by streams; areas covered with scattered timber or brush and heavily timbered areas. While the Soil Calculation Reports note some features which limit use, on-site inspections are advised during the next re-assessment to determine further adjustments that may be warranted.

Ms. Janning testified that the county-wide increase in agricultural realty was calculated by the Department of Revenue for the five year productivity value and the agricultural factors, combined with the county soil survey. The record indicates that the property was properly valued, giving exclusive

¹ Assessors are required to use the manual in determining the actual value of agricultural real estate. Iowa Administrative Code rules 701-71.3.

consideration to the land's productivity capacity using the modern soil survey, as required by the administrative rules. This Board finds that the Wernimonts have failed to prove that the properties are assessed for more than authorized by law.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code § 441.37A(3)(a).

Iowa Code section 441.21 provides that agricultural real estate be assessed at its actual value by giving exclusive consideration to its productivity and net earning capacity. Iowa Code § 441.21(1)(e). In determining the productivity and net earning capacity of agricultural real estate, the assessor is required to use available data from Iowa State University, the Iowa crop and livestock reporting service, the department of revenue, the *Real Property Appraisal Manual*, and the results of a modern soil survey, if completed. Iowa Administrative Code r. 701-71.3.


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the

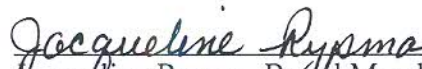
correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).


Viewing the evidence as a whole, we determine the Wernimonts failed to prove that their properties are over-assessed because they were properly valued based on their productivity and earning capacity using the modern soil survey as prescribed by section 441.21(1)(e) and administrative rule 701-71.3. We believe an on-site inspection by the assessor is appropriate and necessary to determine if further spot adjustments are warranted. We, therefore, affirm the Wernimont's property assessments as determined by the Board of Review. The Appeal Board determines that the January 1, 2009, assessment values for the six parcels are \$153,590.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment as determined by the Carroll County Board of Review, is affirmed.

Dated this 18 day of November, 2009.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Chair

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>11-18</u> , 200 <u>9</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
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